COMMENTS - OKLAHOMA CCR PROGRAM AUTHORIZATION

Commenter(s)	Section or Page	Topic	Comment Text
Earl L. Hatley, Grand Riverkeeper, LEAD Agency, Inc.	Page 1-2	Program Existing program not protective of human health and environment	**Groundwater** Nearly all of Oklahoma's ash pits and landfill units are next to our rivers and lakes. And, nearly all of these existing units are known to have contaminated groundwater. Are all of these units now subject to closure? **EPA Comment:** Overall, how (under what statute and authority) will OK DEQ investigate and respond to adverse impacts to public health and the environment from coal ash storage and management?
Jennifer Cassel, Earthjustice et al.	Page 17-18	Program Existing program not protective of human health and environment Site-specific example: Big Fork Ranch	**Big Fork, Internet Documents** Evans and Associates have posted no Annual Report for Big Fork, and the groundwater monitoring results that are provided on the company's website reveal that the monitoring the company has done is highly deficient. First, the company has provided no groundwater monitoring plan, so it is not clear that it has selected both background and downgradient wells, as required by the federal and Oklahoma rules, nor whether it is – as required – sampling from all such wells. Second, it has not tested for all required constituents, and even where it has tested for those constituents, it has not taken the mandated eight samples. The only testing done at the site in 2017 was for Appendix A/Appendix III ("detection monitoring") constituents, and samples were only taken twice.48 No testing of Appendix B/Appendix IV constituents was conducted. Evans and Associates have also failed to post on their CCR website a number of other key compliance plans and analyses required by the federal CCR rule and corresponding Oklahoma regulations, including its run-on/run-off control system plan, its closure plan, and its post-closure care plan **EPA Comment:** What is DEQ's approach for address deficiencies, and to remedy omissions or missing documents from regulated entities' publicly accessible internet sites? Examples from the 6 OK facilities include: missing or inadequate groundwater monitoring reports; incomplete monitoring results; missing fugitive dust reports; missing closure and post-closure care plans; missing inspection reports; missing emergency action plans. How will DEQ require regulated entities to remedy omissions or missing documents from regulated entities' publicly accessible internet sites?

Jennifer Cassel, Earthjustice et al.	Page 15-16	Program Existing program not protective of human health and environment Site-specific example: GRDA	**GRDA** DEQ is already failing to enforce its CCR regulations. GRDA, owner of a CCR landfill at the Grand River Energy Center, was required by both the federal CCR rule and Oklahoma regulations to collect and analyze eight independent samples from each background and down-gradient monitoring well of all contaminants listed in Appendices III and IV of the federal CCR rule (Appendices A and B of the Oklahoma regulations) by October 17, 2017. 40 C.F.R. § 257.94(b); OAC 252:517-9-5(b). GRDA's annual groundwater monitoring report makes clear that it failed to do so. GRDA did not hide this failure; rather, GRDA made it clear to DEQ that it had not collected and analyzed the required eight independent samples for Appendix IV (Appendix B) constituents. See, e.g., GRDA Annual GW Monitoring Report. Yet DEQ did not sanction GRDA for this clear violation of groundwater monitoring requirements that could lead to delayed cleanup of polluted groundwater at the site. Instead, DEQ gave GRDA a pass, granting the company an extension of more than a year to complete that crucial initial sampling. GRDA's plan to evaluate whether any statistically significant increases of coal ash contamination are found over background levels at the GREC landfill site is likewise entirely deficient under both the federal CCR rule and corresponding Oklahoma rules.
Jennifer Cassel, Earthjustice et al.	Page 16-17	Program Existing program not protective of human health and environment Site-specific example: GRDA	**GRDA** Moreover, it appears that GRDA may not meet the requirement that its background groundwater monitoring well "[a]accurately represent[s] the quality of background groundwater that has not been affected by leakage from a CCR unit." 40 C.F.R. § 257.91(a)(1); OAC 252:517-9-2(a)(1). The well, MW 93-1, which GRDA is using as its background well, is located right on the perimeter of the CCR landfill, and historic groundwater sampling from that well has consistently resulted in sulfate concentrations greater than EPA's secondary MCL and boron concentrations above .341 mg/L. GRDA identified MW 93-1 as its background well in filings with DEQ. Yet again, DEQ identified no concerns with this likely violation of state and federal rules. **EPA Comment** Did ODEQ review this monitoring system plan and determine it was adequate, or is ODEQ engaging with GRDA to address deficiencies?

Jennifer Cassel, Earthjustice et al.	Page 16-17	Program Existing program not protective of human health and environment Site-specific example: Northeastern	**AEP** Documents obtained from DEQ indicate that the agency would have let AEP off easily for failing to collect and analyze eight independent samples of the Appendix III and IV constituents (Appendix A and B constituents) at CCR units at its Northeastern coal plant by the October 17, 2017 deadline. See Letter from DEQ to AEP, dated January 16, 2018, attached hereto as Exhibit 2, at 2 ("In accordance with OAC 252:517-9-5(b), a minimum of eight independent samples from each background and downgradient well must be collected and analyzed for the constituents listed in Appendix A and B of OAC 252:517 no later than October 17, 2017. Testing of groundwater at that site starting ten years ago revealed dangerous concentrations of arsenic, lead, barium, chromium, selenium, thallium, and other coal ash pollutants. And, though AEP built a "slurry wall" and "grout curtain" along one side of the CCR landfill in 2012-2013, those barriers clearly have not stopped the escape of pollution. The 2017 testing of groundwater monitoring wells located just beyond the grout curtain show unsafe levels of arsenic, boron, molybdenum, and radium, and high concentrations of coal ash constituents cobalt, fluoride, sulfate, and TDS. Yet DEQ has not required AEP to do anything more to halt the flow of these dangerous pollutants out of its coal ash dumps. **EPA Comment** How will DEQ enforce its program's groundwater monitoring requirements if entities fail to provide monitoring results within established timeframes, fail to monitor for all required constituents, or fail to take additional required actions such as assessment monitoring or corrective action as required under the program? Please provide detail on any latitude in the proposed OK DEQ program to grant waivers or otherwise deviate from the schedules and requirements set forth in the program on a case-by-case basis. If any such latitude exists, please provide detail as to existing protections that continue to ensure the protection of human health and the environment in the context of such latitude or waivers granted to regulated facilities. Has AEP installed an appropriate liner (permeability of 10-7 cm/sec or lower) in the landfill? In light of the GW potentiometric maps in Appendix A of AEPs Annual Groundwater Monitoring Report, why does the DEQ accept AEP's designation of well MW-3D as representative of the baseline conditions rather than designating well MW-8D as representative of the baseline conditions? Why is there no requirement for additional MWs further away from AEP's property line towards the town of Oologah, where drinking well waters might be impacted? Has the GW monitoring data so far triggered Assessment Monitoring? If not, why is that given the evidence of groundwater contamination going back to 2008?

Ann Bornholdt	Page 1	Program Insufficient opportunity for public participation	**Public Participation in Tier 1 Mods** DEQ permitting process has different tiers. If a permit is classified as Tier I the public has no opportunity to comment on whether the permit should be granted and no opportunity to legally challenge a flawed permit. Considering the potential impact of poisoning our water with toxic substances, this is unacceptable.
Jennifer Cassel, Earthjustice et al.	Page 25	Program Insufficient opportunity for public participation	**Public Participation in Permit Applications.** Oklahoma's CCR program fails to provide even the minimum public participation opportunities in solid waste facility permitting mandated by 42 U.S.C. § 6974(b)(1) and RCRA's implementing regulations, codified at 40 C.F.R. Parts 239, 256, and 25. Oklahoma's CCR program fails to require new CCR units to submit numerous key compliance proposals and compliance demonstrations in their CCR permit applications. Because these key compliance proposals and demonstrations are excluded from the permit application, the public is not provided an opportunity to review and comment on those documents during the permitting process even when Oklahoma provides for public review and comment on certain key compliance demonstration documents in the permitting process, it fails to ensure that that public participation is meaningful. These deficiencies require EPA to reject Oklahoma's application. **EPA Comment** Do members of the public have the opportunity to review and comment on plans and compliance approaches proposed in applications for CCR permits and modifications? For which plans and which permitting actions do those opportunities exist? Regarding applications overall, describe DEQ's plan, protocol, or approach for receiving, reviewing, and granting permits.

Jennifer Cassel, Earthjustice et al.	Page 28-30	Program Insufficient opportunity for public participation	**Public Participation for Existing Permits** The state's CCR program provides little and, in some cases, no opportunity for the public to review and comment on key documents setting out site-specific practices that the CCR unit must undertake to comply with the federal CCR rule and corresponding Oklahoma requirements. For existing CCR units, which under Oklahoma's CCR program are only required to modify their existing permits. See OAC 252:517-1-7(b)-(c). Oklahoma represented to EPA in its state program application that "only CCR unit applications for minor modifications, lateral expansions within the permit boundary below a certain capacity, and approval of technical plans fall within the Tier I category." Application at 6 (emphasis added). DEQ's regulations setting forth which solid waste permits fall into Tier I likewise make clear that the lengthy and comprehensive permit modifications necessary to ensure permittees comply with federal CCR rules and their Oklahoma counterpart should not be classified as Tier I.68 Nonetheless, it appears that DEQ is improperly classifying permit modification applications for existing CCR units – the permit modifications to obtain permits mandating compliance with the Oklahoma counterparts to the federal CCR rule – as "Tier 1" applications, meaning that there is no opportunity whatsoever for public review or comment of those permit applications or the associated "permits for life" that DEQ issues to these facilities prior to the permit's issuance. **EPA comment** It appears that permits for CCR landfills were issued many years ago and the permits are lifetime permits. It also appears that nearly all permit modifications are classified as Tier 1 and do not allow for public participation. Is this accurate? Please explain.
Jennifer Cassel, Earthjustice et al.	Page 30-31	Program Insufficient opportunity for public participation	**Public Participation for Closure** Even when Oklahoma's CCR program does provide for public review and comment in the permitting process, it fails to ensure that that public participation is meaningful. This problem is particularly acute for CCR unit closure plans. Oklahoma requires the owner/operator of a new CCR unit to submit a closure plan for the unit as part of its permit application, OAC 252:517-3-6(a)(11)(D), thus making the closure plan subject to public review and comment prior to permit issuance if Oklahoma stays true to its word in its Application that new CCR units will be permitted as Tier II or III. See Application at 7; 27A Okla. Stat. § 2-14-302; OAC 252:4-7-59; OAC 252:4-7-60. But owners/operators may modify their closure plans at any time, OAC 252-517-15-7(b)(3)(a), and Oklahoma's regulations treat modifications to closure plans as Tier I permits, which provide no public participation opportunities. See OAC 252:4-7-2 ("Tier I is the category … with no public participation except for the landowner"); OAC 252:4-7-58(2)(A)(iii) (Tier I includes "[m]odifications of plans for closure"). The public, then, could provide extensive input on a CCR unit's closure plan during the Tier II or III permitting process, only to have the CCR unit modify that closure plan – potentially only days after receiving its permit – wholly behind closed doors. This creates the possibility for bait-and-switch that deprives the public of meaningful opportunity to comment on closure plans – plans which, if inadequately protective, could subject Oklahoma communities to dangerous pollution for generations.

Jennifer Cassel, Earthjustice et al.	Page 35-36	Program Insufficient opportunity for public participation	**Public Participation for Post Permitting** Oklahoma's CCR program provides no opportunity for public review and comment on these critical post-permitting compliance proposals. Because CCR unit permittees are required by their permit to submit these documents to DEQ, see OAC 252:517-1-7(a), there is no indication that these post-permit submissions will be treated as separate permit applications. And even if they were, the only "tier" of Oklahoma's tiered permitting system that appears to encompass these compliance documents is Tier I, which provides no public participation whatsoever in the permitting process. Because Oklahoma's CCR program fails to provide the post-permitting opportunities for public participation contained in 40 C.F.R. Part 239, Oklahoma's Application must be denied.
Jennifer Cassel, Earthjustice et al.	Page 36-38	Program Insufficient opportunity for public participation	**Public Participation for Civil Enforcement Actions** Oklahoma's Application fails to establish that it meets 40 C.F.R. § 239.9. The state makes clear that it cannot meet the second option – providing for permissive intervention under 40 C.F.R. § 239.9(b) – because it does not provide public notice of proposed settlements of civil enforcement actions. Specifically, Oklahoma admits that it cannot meet 40 C.F.R. § 239.9(b)(1) because it "has no statutory or regulatory process for public notice in the event that a civil enforcement action is settled in District Court." Application at 9. Tellingly, Oklahoma never even argued that it meets 40 C.F.R. § 239.9(a)'s requirement that a state provide intervention as of right in civil enforcement actions. Although EPA cites to a provision of the Oklahoma code providing intervention as of right in certain situations, Oklahoma never brought that up in its application, much less provided examples of that provision being relied on to allow intervention as of right in civil enforcement proceedings. Oklahoma has, in contrast, clearly demonstrated its intent to provide a right to intervene in similar contexts, such as in 27A Okla. Stat., § 2-6-206(B), regarding discharge permits. **EPA Comment** Does OK's program provide for permissive intervention under 40 CFR § 239.9? If so, which portion of the permit contain these provisions?

Jennifer Cassel, Earthjustice et al.	Page 38-39	Program Insufficient opportunity for public participation	**Program Modification Procedures** Neither Oklahoma's CCR regulations nor its Application contain any "procedures for revision," as called for by 40 C.F.R. § 256.03(d), nor provide any information whatsoever about what procedures DEQ will employ if and when the state modifies its CCR program. This gaping hole leaves many key questions unanswered. Will Oklahoma notify EPA of all permit program modifications, as called for by 40 C.F.R. Part 239? Are there any types of modifications to the state program that Oklahoma proposes not to submit to EPA for approval? If so, what are they? How soon does Oklahoma propose to notify EPA in the instance of a change to its state CCR program? In general, what procedures will be used for modification of the state program, and what public participation opportunities will be offered? Without clarity as to the procedures for when and whether modifications to the state program would be submitted to EPA for approval, or other clear provisions affording public participation in such modifications, Oklahomans are left wondering if and when they will be provided the required opportunity to weigh in on the operations of CCR units that have longstanding, harmful impacts to health and environment. ... Oklahoma's failure to clearly set out the procedures for modification of its CCR program and the public participation opportunities to be afforded with any such modification renders the state program inconsistent with 40 C.F.R. Parts 239 and 256 and RCRA § 7004(b)(1). Accordingly, EPA must reject Oklahoma's Application. **EPA Comment** How does OK anticipate adjusting its program when changes to the federal rules occur?

Jennifer Cassel, Earthjustice et al.	Page 39-40	Program Insufficient opportunity for public participation	**"Interested and affected parties" notification of a public meeting on the assessment of corrective measures at polluting CCR units.** Oklahoma's CCR program does not ensure that all "interested and affected parties" will be notified of a public meeting on the assessment of corrective measures at polluting CCR units, and therefore is not "at least as protective as" the federal CCR rule. ... Oklahoma's requirements fail to ensure that all "interested and affected" parties receive notice of the meeting and thus have the opportunity to participate in it. Numerous community members and residents who do not live on land "directly overl[ying]" the plume, or where the plume is predicted to travel within one year, may be interested or affected by pollution from the CCR unit. For example, drinking water wells or surface water intakes may be located just further than where the plume is predicted to travel within one year; private or community water wells may draw from an aquifer that intersects with the plume. Residents who drink such water would potentially be "interested or affected" by the pollution from the CCR unit but, under Oklahoma's program, would not receive direct notice of the meeting. Nor is it clear that notice would be published in news outlets local to such residents and communities, since Oklahoma's CCR program does not specify where publication of such notice would be required. Failing to notify these "interested and affected" parties could result in a corrective measures assessment that does not take into account important water or geological features, local uses, or other important considerations that could affect the success of measures taken to abate pollution. This failure renders Oklahoma's CCR program not "at least as protective as" the federal CCR rule; the state's application must, therefore, be denied. **EPA Comment** What type of public notice does OK provide on permits and permit modifications when there is public participation? Which members of the public receive or have access to the notice?

Jennifer Cassel, Earthjustice et al.	Page 13-15	Program Lack of state resources to administer program	**Program Resources** There is no information whatsoever in Oklahoma's application, EPA's proposal to grant Oklahoma's application, or supporting documents, about "the staff resources available to carry out and enforce" Oklahoma's CCR program. Neither DEQ nor EPA bothered to address the critical question of available resources, contrary to the WIIN Act's mandates and the explicit instruction of 40 C.F.R. § 239.4(e). Oklahoma's failure to provide the information specified in 40 C.F.R. § 239.4(e) is, alone, sufficient grounds for EPA to deny the state's application. Oklahoma may have avoided providing the information mandated by 40 C.F.R. § 239.4 because it simply cannot demonstrate adequate resources to ensure CCR units comply with the applicable protections. The state is in the throes of a severe financial crisis. ..... Indeed, funding cuts to DEQ have already forced the agency to abandon plans to clean up open dumps and work to protect drinking water. DEQ's most recent annual report notes that several positions have gone unfilled due to the funding shortages and states that, "Should state or federal funding substantially decrease, DEQ would have to further reduce activities and/or secure additional fee funding." A law further cutting DEQ's budget – and that of other state agencies – was enacted on February 27, 2018 **EPA Comment** Understanding the current budget situation, will OK DEQ be receiving additional resources to implement and administer the CCR permit program?

Jennifer Cassel, Earthjustice et al.	Page 20-24	Program Not as stringent as Federal Permit Term	**Permits for LIfe** Oklahoma's CCR program grants "permits for life." OAC 252:517-3-1(a) ("Permits shall be issued for the life of the CCR unit, subject to the limitations of (b) of this Section [providing that "DEQ may specify timelines within permits for commencement of construction and operation of new CCR units."]."). This grant of a permit for life is not permissible under the WIIN Act. Permits must include provisions allowing them to be re-opened, or expire and be renewed, to incorporate any changes to the state program necessary to ensure that the CCR unit "continues to achieve compliance" with standards "at least as protective as" those in any revised federal CCR standards. In sum, because a "permit for life" is inconsistent with the WIIN Act's mandate that state CCR programs ensure that CCR units located therein meet standards "at least as protective as" changing federal CCR standards, and Oklahoma's program grants CCR units permits for life, EPA must deny Oklahoma's Application. Oklahoma must modify its CCR program to provide that permits for CCR units be re-opened, or expire and be renewed, to incorporate any changes to the state program necessary to ensure that the CCR unit continues to achieve compliance with standards at least as protective as those in any revised federal CCR standards. EPA must reject Oklahoma's CCR program because its proposal to grant a "permit for life" to CCR units runs contrary to fundamental principles enshrined in many federal and state environmental laws, not to mention common sense. Granting a permit for life is nearly unheard of for environmental permits: air permits, water discharge permits, and hazardous waste permits all expire and must be renewed. In addition to its inconsistency with fundamental principles of RCRA, the "permit for life" Oklahoma proposes also appears not to conform to Oklahoma's own laws, at least with regard to CCR surface impoundments. See 27A Okla.St.Ann. § 2-6-501(C) ("A permit for activities specified in paragraph A of this section shall be issued by the Executive Director for no more than five (5) years and may be renewed pursuant to rules of the Board") **EPA Comment** Which sections of RCRA or other federal statutes or regulations is OK DEQ drawing on to issue lifetime permits? What does Okla.St.Ann. § 2-6-501(C) require regarding permit terms? Do the permit termination procedures include public participation/notification? How does OK DEQ investigate citizen complaints regarding permit violations? Can OK DEQ provide clarity on its definition of "unit life".

Jennifer Cassel, Earthjustice et al.	Page 20	Program Not as stringent as Federal Permit Conditions	**Incorporation of Compliance Demonstrations** Oklahoma's CCR program does not clearly provide that key site-specific compliance proposals and demonstrations – including but not limited to closure plans, post-closure plans, groundwater monitoring plans, and corrective action plans – are to be incorporated into a CCR unit's permit. Those documents set out critical site-specific measures necessary for each CCR unit to comply with the CCR regulations; as such, they must – once reviewed and approved by DEQ – be incorporated into the permit as site-specific conditions. See Waterkeeper Alliance, Inc., 399 F.3d at 503; Envtl. Def. Center, 344 F.3d at 855; Sierra Club Mackinac Chapter, 277 Mich.App. at 533-34. If Oklahoma does not ensure that these critical, site-specific compliance proposals are incorporated as enforceable permit conditions, CCR unit owners/ operators may argue that they need not follow those plans, which are the basis for compliance with both federal and Oklahoma CCR requirements. As such, under the WIIN Act, EPA may not approve Oklahoma's Application until it modifies its regulations to clearly, explicitly provide that CCR units' compliance plans and demonstrations – once pre-approved by DEQ after opportunity for public participation – become conditions of the CCR units' permits. **EPA Comment** How does Oklahoma incorporate plan requirements into permits? Does his vary by type of plan or type of permitting action? Is there an example of this?

Jennifer Cassel, Earthjustice et al.	Page 9-10	Program Not as stringent as Federal Prior approval	**Prior Approval** Oklahoma's Application may not be approved because its CCR program does not provide for "prior approval" of key documents required to ensure compliance with provisions at least as protective as the federal CCR rule, as required by the WIIN Act. ... First, Oklahoma's CCR program fails to ensure prior approval of key compliance proposals and compliance demonstrations for new CCR units, lateral extensions of existing CCR units, and existing CCR impoundments without a state permit. ... Oklahoma's CCR program does not require CCR permit applicants to submit many essential documents proposing how the CCR unit will comply with the requirements of the federal CCR rule and corresponding Oklahoma rules as part of their permit applications. Thus, DEQ neither reviews nor approves those documents in the permitting process. Neither OAC 252:517-3-6(a) nor any other Oklahoma provision, however, clearly requires a CCR permit applicant to submit, as part of its permit application, any of the following essential information: ... Nor does Oklahoma's CCR program ever require that DEQ pre-approve these key compliance demonstration documents subsequent to the permitting process. **EPA Comment** Is a CCR permit applicant required to submit this essential information? For which types of permits / permit modifications? Do OK regulations require that these documents be submitted, reviewed and approved by OK?

Jennifer Cassel, Earthjustice et al.	Page 10-11	Program Not as stringent as Federal Prior approval	**Prior Approval** Further, Oklahoma also does not require prior approval of other key compliance demonstrations that may not be available at the time of a CCR unit's permit application. For example, if groundwater monitoring conducted pursuant to the federal CCR rule and corresponding Oklahoma regulations reveals concentrations of certain coal ash pollutants that are "statistically significant" increases over background concentrations of those pollutants, the owner/ operator of the CCR unit is required to begin monitoring for an additional set of contaminants associated with coal ash (Appendix IV or, under Oklahoma's program, Appendix B contaminants) unless the owner/operator provides an adequate "alternative cause demonstration" showing that the contamination comes from elsewhere. ... Yet Oklahoma's CCR program does not require that DEQ review or approve any alternative cause demonstration or selected remedy for contamination. Instead, the State's regulations direct the owner/operator of the CCR unit to implement the corrective action remedy within 90 days of selecting that remedy, with no mention of any need for the owner/operator to receive approval from DEQ before doing so. The same is true of the critical periodic structural stability analyses that are performed after the permitting process is complete. Owners/operators of CCR impoundments are required to conduct safety factor analyses, hazard potential analyses, and structural stability assessments every five years to ensure that changing conditions and pressures on CCR impoundments have not rendered the impoundments unsafe. Notwithstanding the important analysis that these documents contain – and the serious threat to health and safety that CCR units may pose if these analyses are done incorrectly – Oklahoma's CCR program does not require that DEQ review or approve them.

Jennifer Cassel, Earthjustice et al.	Page 11	Program Not as stringent as Federal Prior approval	**Prior Approval** Oklahoma's CCR program also fails to ensure prior approval of key compliance demonstration documents at existing CCR units that already have a state permit. Pursuant to OAC 252:517-1-7(b)(2), existing CCR landfills need only apply for a modification to their permit, rather than apply for a new permit. The same appears to be true for existing CCR impoundments with a state permit. See OAC 252:517-1-7(c) ("[e]xisting CCR impoundments permitted under OAC 252:616 must be permitted in accordance with the rules of this Chapter upon expiration of the existing permit or no later than Oct. 19, 2018, whichever occurs first"); OAC 252:517-3-6(a) (including "existing surface impoundment[s] without a solid waste permit" in the description of CCR units requiring a new CCR permit application) (emphasis added). But Oklahoma's mandates for what must be included in applications to modify a permit for existing CCR units are extremely vague. The State's CCR provisions state only that "[a]n applicant requesting a modification to an existing permit shall submit information identified in this Part related to the proposed modification." OAC 252:517-3-6(c). Maps and detailed drawings of the unit, including design drawing showing liner design, groundwater levels, and flood plains, are required only for permit modifications for which "the data originally submitted would be made ambiguous, inaccurate, or out of date by the proposed modification." OAC 252:517-3-31(a)(4). In sum, Oklahoma's CCR program largely delegates to the owner/operator of the CCR unit the determination of which documents are "related" to the permit modification it seeks, thereby failing to make sure that all plans and assessments necessary to ensure compliance with the federal CCR rule and its Oklahoma counterpart are submitted to, reviewed, or pre-approved by DEQ. **EPA Comment** Do permits for existing CCR surface impoundments have an expiration date? Is it possible for an existing unit to modify an existing permit to comply with the new rules, without submitting plans required by the federal rule?